

**BEFORE THE
PUBLIC SERVICE COMMISSION OF
THE STATE OF SOUTH CAROLINA**

Petition of Verizon South Inc. for Arbitration of an Amendment to Interconnection Agreements with Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in South Carolina Pursuant to Section 252 of the Communications Act of 1934, as Amended, and the *Triennial Review Order*

Docket No. 2004-0049-C

UPDATE TO PETITION FOR ARBITRATION OF VERIZON SOUTH INC.

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March 19, 2004

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In this filing, Verizon South Inc. (“Verizon”) attaches an updated version of its draft TRO Amendment and describes the changes made to the amendment since Verizon’s Petition was initially filed on February 20, 2004.

The TRO Amendment that Verizon initially filed was prepared before the D.C. Circuit’s decision in *United States Telecom Ass’n v. FCC*, Nos. 00-1012 *et al.*, 2004 WL 374262 (D.C. Cir. Mar. 2, 2004) (“*USTA IP*”). In that decision, the D.C. Circuit affirmed in part and vacated in part the FCC’s *Triennial Review Order*. The court struck down several of the unbundling obligations that the FCC imposed on incumbent carriers, while affirming the FCC in almost all respects in cases where the FCC eliminated or restricted ILECs’ network unbundling obligations. In a few, limited respects, the D.C. Circuit’s ruling has prompted Verizon to propose conforming modifications of its TRO Amendment. Those modifications are described below and reflected on the attached redlined version of the draft TRO Amendment. The redline also reflects some grammatical and typographical corrections and minor clarifications unrelated to the D.C. Circuit’s ruling.

I. Amendment Terms and Conditions

In § 6, Verizon has deleted the language that referred to the “pending” decision of the D.C. Circuit. In its place, Verizon has added language stating that “should the D.C. Circuit or the United States Supreme Court issue a stay of any or all of the D.C. Circuit Decision’s provisions,” any terms and conditions that implement the stayed portions will be suspended.

II. General Conditions (TRO Attachment § 1)

No substantive changes have been made to this section of the TRO Attachment.

III. Glossary (TRO Attachment § 2)

Section 2.16 (“Nonconforming Facility”) has been slightly modified to clarify that non-impairment findings are not the exclusive means by which a particular unbundling obligation under 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51 may be removed.

Former § 2.18 (“Qualifying Facility”) has been deleted entirely. This change reflects the D.C. Circuit’s decision to vacate the FCC’s distinction between qualifying and non-qualifying services, which the FCC used as a basis for determining whether a CLEC would be entitled to gain access to UNEs. *See USTA II*, 2004 WL 374262, at *37.

Section 2.19 (“Route”) has been modified to add the italicized language to the following sentence: “A transmission path between one of Verizon’s wire centers or switches and another of Verizon’s wire centers or switches (*or, as applicable, a class or grouping of such transmission paths in a particular market*) within a LATA.” This modification reflects the D.C. Circuit’s reversal of the FCC’s route-specific market definition for analyzing impairment with respect to high-capacity facilities. *See id.* at *18-*19.

IV. Loops (TRO Attachment § 3.1)

A. High-Capacity Loops (TRO Attachment § 3.1.1)

Section 3.1.1.3 has been modified to allow Verizon to cease providing DS1 Loops or DS3 Loops whenever a state commission makes a finding of non-impairment as to a “grouping” of locations “in a particular market.” *See id.*

B. Fiber-to-the-Home (“FTTH”) Loops (TRO Attachment § 3.1.2)

No changes were made to this section.

C. Hybrid Loops (TRO Attachment § 3.1.3)

No changes were made to this section.

D. IDLC Hybrid Loops (TRO Attachment § 3.1.4)

No changes were made to this section.

E. Line Sharing (TRO Attachment § 3.2)

No changes were made to this section.

V. Subloops (TRO Attachment § 3.3)

No changes were made to this section.

VI. Circuit Switching (TRO Attachment § 3.4.1-3.4.2)

In § 3.4.1, the word “conditional” was added to the following sentence: “Notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT, as of October 2, 2003, with the exception of the foregoing *conditional* obligation to provide Mass Market Switching, Verizon shall have no other obligation to provide any other form of Local Switching or Tandem Switching” The addition of this language clarifies that, consistent with the existing language in § 3.4.1, Verizon is required to provide Mass Market Switching “in accordance with, but only to the extent required by” Section 251(c)(3) of the Act and Part 51 of the FCC’s regulations.

VII. Signaling/Databases (TRO Attachment § 3.4.3)

No changes were made to this section.

VIII. Interoffice Facilities (TRO Attachment § 3.5)

In § 3.5.1, Verizon has deleted the language that had limited its offering of dedicated transport and dark fiber transport to those CLECs seeking to offer a “qualifying service.” This reflects the D.C. Circuit’s vacatur of the qualifying/non-qualifying service distinction in the *Triennial Review Order*. See *USTA II*, 2004 WL 374262, at *37.

IX. Combinations and Commingling (TRO Attachment § 3.6)

Section 3.6.2.1 (“Eligibility Criteria”) previously stated that Verizon would not be obligated to offer certain high-capacity loop/transport combinations “until and unless [the CLEC] certifies in writing” that it has met the eligibility criteria. Verizon has added language clarifying that, as already provided in the existing language in § 3.6.1, Verizon will offer those combinations “to the extent and so long as Verizon is required by 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51 to do so,” but still with the condition that the CLEC must certify that it has met the eligibility criteria.

X. Routine Network Modifications (TRO Attachment § 3.7)

No changes were made to this section.

XI. Non-Conforming Facilities (TRO Attachment § 3.8)

Two minor and clarifying changes were made to the language of this section.

XII. Pricing (Pricing Attachment and Exhibit A)

No changes were made to this section.

CONCLUSION

Verizon's proposed language implements the *Triennial Review Order*, as upheld or modified by the *USTA II* decision. The Commission therefore should approve Verizon's TRO Amendment.

Respectfully submitted,

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